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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1948

No. 50

JACK O'LEE YOUNG, PETITIONER,

vs.

JOSEPH E. RAGEN, WARDEN, ILLINOIS STATE PENITENTIARY, JOLIET, ILLINOIS.

ON WRIT OF CERTIORARI TO THE CIRCUIT COURT OF RANDOLPH COUNTY, STATE OF ILLINOIS.

PETITION FOR CERTIORARI FILED NOVEMBER 28, 1947.

CERTIORARI GRANTED MAY 3, 1948.

SUPREME COURT OF THE UNITED STATES

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[fols. 1-3] Caption omitted

[fol. 4] **IN CIRCUIT COURT OF RANDOLPH COUNTY**

PEOPLE OF THE STATE OF ILLINOIS, ex Rel. JACK O'LEE YOUNG, Petitioner,

vs.

JOSEPH E. RAGEN, Warden, of the Illinois State Penitentiary, Stateville Branch, at Joliet, Illinois, et al., T. P. Sullivan, Director, of the Dept. of Public Safety, at Springfield, Illinois, Respondents

AFFIDAVIT IN FORMA PAUPERIS—Filed October 6, 1947

To the Honorable Justices of the Third Judicial Circuit, in and for Randolph County, Illinois, in the Court House, at Chester, Illinois:

Jack O'Lee, Young, after first being duly sworn upon his oath, deposes and states:

1. That he is the Petitioner in the herein entitled cause and that his petition for the Writ of Habeas Corpus is well founded in fact and in point of law.

2. Petitioner further states, That he has no property, assets, or funds, to pay the costs of Habeas Corpus procedure, but that he has cause for action in the protection and safeguarding of his legal and Constitutional Rights.

3. Petitioner therefore prays leave to be permitted to file this petition as a pauper, as provided by law in the State and in the United States Statutes.

4. Petitioner further asks that such counsel as the Court may see fit to appoint be appointed in petitioner's behalf; but that such counsel, will not have all power of attorney, that said counsel will be appointed to aid petitioner at hearing on the petition hereto attached.

(Signed) Jack O'Lee Young, No. 25249, Petitioner.

STATE OF ILLINOIS,
County of Will, ss:

On this 23 day of Sept., A. D. 1947, personally appeared before me the above named petitioner and made oath that he has read the foregoing affidavit; by him subscribed and that the same is true in substance; as a matter of fact.

(Signed) John J. Broderick, Notary Public. My Commission expires the 17 day of Dec. A. D. 1950.

[fol. 5] In Circuit Court of Randolph County.

In Case No. 1028 & 1029. (To run Concurrently)

People of the State of Illinois, ex Rel. Jack O'Lee Young, Reg. No. 25249, Petitioner,

vs.

Joseph E. Ragen, Warden, of the Illinois State Penitentiary, Stateville Branch, at Joliet, Illinois, et al., T. P. Sullivan, Director, of the Dept. of Public Safety, at Springfield, Illinois, Respondents

Petition for a Writ of Habeas Corpus—Filed October 6, 1947

To the Honorable Justices of the Randolph County Circuit Court, of the Third Judicial Circuit, in the Court House at Chester, Illinois:

Your Honor:

Your Petitioner, Jack O'Lee Young, now confined in the Illinois State Penitentiary, Stateville Branch, at Joliet, Illinois, prays for leave to prosecute this writ in order that he may secure his just and lawful liberty and freedom from further illegal restraint. Your Petitioner, is now re-trained and deprived of his liberty without "due process of law" in violation of his rights as guaranteed to him by both the State of Illinois Statutes and the Federal Constitution, and that the presentation of this matter before this Court does not require any lengthy debate as to the legality or merit of the facts herein stated, and that the points of law and authorities relied on by your petitioner are of simple construction and easily adjudicated.

[fol. 6] Come now your petitioner, Jack O'Lee Young, who states, avers, and alleges that he is illegally and unlawfully confined in the Illinois State Penitentiary, at Joliet, Illinois, by virtue of a void process, judgement and mittimus returned in the Third Judicial Circuit Court, of Randolph County, State of Illinois, on September 3rd, 1946, before the Honorable Judge, Edward F. Bareis, one of the Judges of the Third Judicial Circuit.

If it please the Court:

Your Petitioner, and one by the name of Emma Kathleen Young, were arrested at St. Marys, Missouri, without

warrant on Saturday, August 17, 1946. and were held over night in the county jail at Perryville, Perry County, Missouri.

On a verbal promise that justice would be done, your petitioner, and said Emma Kathleen Young, waived extradition, and was taken to the Randolph County jail, at Chester, Illinois, on Sunday August 18, 1946, by Sheriff of said county, without warrant,

And that on August 20, 1946, the said Mrs. Young was taken before a Judge of the Randolph County Court, in the Court House at Chester, Illinois, and she was then convicted and sentence to One Year (1) in the Reformatory for Women, at Dwight, Illinois. (and the States Attorney stated, that the reason he would not have your petitioner, tried in the same said Court, was because Your petitioner had a past record.

From August 17. 1946, until September 3. 1946, your petitioner, was held "incommunicado" in the Randolph County jail, and was denied his rights of securing counsel and was subjected to the abuse and torment of both, the States Attorney, and the said Sheriff of Randolph County.

In the Smith-Hurd Revised Statutes of Illinois, Chapter 38:655:660, the law states: "When an arrest is made without a warrant, either by an officer or a private person, the person arrested shall, without unnecessary delay, be taken before the nearest magistrate in the county, who will hear the case; for examination, and the prisoner shall be examined and dealt with as in cases of arrest upon warrant. (1874: March 27, R.S. 1874.) P 348. Div. 6.7.

Your Petitioner, was never taken before a magistrate to have a charge formally placed against him and bail set, instead, he was taken before the States Attorney, the following day August 19. 1946, who threatened him and tried to force petitioner, to sign papers, waiving his rights, and this was not "due process of law", and, when your peti-

[fol. 7] tioner refused to sign his . . . rights away, the States Attorney became highly incensed, and threatened your petitioner with a long se-tence in prison.

And on September 3, 1946, after having been held "incommunicado" in the Randolph County jail for fifteen (15) days, your petitioner was indicted, tried, convicted, sentenced all on same day, (September 3, 1946) and it is a clear case of railroading a helpless man into the penitentiary, your petitioner had the merest pretense of a trial.

Petitioner was taken before the court, the States Attorney read an indictment charging Burglary and Larceny, and then petitioner was sentenced to five (5) to seven (7) years in the Illinois State Penitentiary, at Menard, Illinois. Petitioner made no Plea, waived no rights of Counsel, and he waived no rights of a Jury, Petitioner asked for counsel, and was denied. He then stood mute through the rest of the proceeding, a Plea of Guilty was enter-d against him and he was sentenced. Petitioner was never, at anytime, warned of his rights, nor did he realize that a Plea had, in fact, been entered against him or of the consequences thereof, Your Petitioner didn't even receive a copy of the indictment until after he had been sentenced. "In People vs. Rothe, 358: Ill 52, 192 N. E. 177, it was held "It is trial courts duty to uphold guaranty of fair trial to all persons, whether innocent or guilty, and in People vs. Saylor, 319 Ill. 205, 149 N. E. 767, holds "Official duty of States Attorney is to see that defendent has fair trial. The States Attorney did everything in your petitioner case, but sentence him. The States Attorney, acted as Prosecutor, Court Reporter, and Court Clerk. (Please see note Two (2)- All this too, was not "due process of law". In People vs. Clavey, 355 Ill. Feb. 24th, the Supreme Court holds. "The State is sovereign and it neither needs nor can accept any undue or questionable advantage over one of its citizens. Its proceedings against an accused must be kept up on such ethical plane as will be consistent with its dignity and its power.

The Constitution of the State of Illinois states in Article # 2, Section # 2, "No person shall be deprived of life, liberty or property, without due process of law. In Article # 2, Section # 9, it states, in part, "In all criminal prosecutions, the accused shall have the right to appear and defend in person and by counsel".

[fol. 8] The Fourteenth Amendment of the Constitution of the United States says, in part, "nor shall any State deprive any person of life, liberty or property, without "due process of law", and also, the Sixth Amendment of the Constitution of the United States says, "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation:

to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

The right of "counsel" is a Federal right as well as a State right, and it is guaranteed by both the Federal Constitution and the Illinois Constitution, and a denial of such right is contrary to all the principles of American jurisprudence, and is particularly contrary to the rule of common-law within the meaning of "due process of law."

In Baily vs. People, 190 Ill. 38, 60 N. E. 98, 54, it was held (in part) "Due process of law implies the right of the person thereby to be present before the tribunal which pronounces judgement upon the question of life, liberty or property in its most comprehensive sense, to be heard, by testimony or otherwise and to have the right of controverting, by proof, every material fact which bears on the question of right in the matter involved. If any question of fact or liability be conclusively be presumed against him, this is not "due process of law.

In Chapter 38: 736, of Smith-Hurd Revised Statutes the law definately states, "All trials for criminal offences shall be conducted according to the course of common-law, except when this act points out a different mode, and the rules of evidence of the common-law shall also be binding upon all courts and juries in criminal cases except otherwise provided by law. (1874, March 27, R. S. 1874, P. 348, Div. 13: 8.)

Due process of law is the very embodiement of the rules of common-law, and means in this case that your petitioner should have had a fair and impartial trial before a fair and impartial Judge, and prosecuted by a fair and im-[fol. 9] partial States Attorney, and, your petitioner should have had access, and been allowed to be represented by counsel, and given time and opportunity to prepare his defence. The records, mittimus, and letters attached, will show that this was not done, and, that petitioner should be freed from further illegal restraint.

Your Petitioner, further states that he never waived any of his rights. That he never waived his right to counsel, that he never waived his rights to a jury trial, and that, he never entered a Plea of Guilty or otherwise, and that after a Plea of Guilty had been entered against him, he was never warned of the consequences of such Plea. And should this court allowe petitioner, the right to be heard, that your

petitioner will prove beyond a reasonable doubt, that he was railroaded to the Penitentiary by an obviously prejudiced States Attorney.

One month after your petitioner had started service upon his sentence of five (5) to seven (7) years as trial Judge had given him, he received a copy of his mittimus (some sixty (60) days later) and discovered that his sentence had been changed to Five (5) to Ten (10) years by the States Attorney. (See States Attorney Letter: exhibit Two (2). Your Petitioner also wrote a letter to the trial Judge, calling his attention to the error. Your petitioner, then received a reply from the trial Judge (see exhibit one (1) which was also attached, a letter from the States Attorney (see exhibit two (2) wherein the States Attorney says in paragraph two (2) "The docket entry is from five (5) to ten (10) years, and that is the way "I" wrote the minutes up and prepared the mittimus. It is entirely possible that I made a mistake, but as I recall the sentence was from five (5) to ten (10). It should be entirely clear to the court that the States Attorney exceeded his power and his office by being permitted in anyway to interfere with the records in the case, It is a Court Reporter's duty and a Court Clerk's job to keep the records accurate—not the State's Attorney's job. Further—in paragraph four (4) in the aforementioned letter, he further states: Maximum sentence on a five (5) to seven (7) or a five (5) to ten (10) would be 6. 3, and he would be eligible for a parole at the end of five (5) years. "Here again the State's Attorney erred. He is either ignorant of the law, or he is deliberately misinforming the trial judge as to the maxi-
[fol. 10] mum of the sentence. Actually the maximum on a five (5) to seven (7) year sentence is four (4) years, and nine (9) months, and on a five (5) to ten (10) year sentence, the maximum is six (6) years, and three (3) months. A difference of eighteen (18) months.

And then on November 4, 1946, your petitioner, received another letter from trial Judge (see exhibit (3) stating he had authorized a correction in the error on the sentence, but no action on it was forthcoming.

And so, on December 3 1946 your petitioner mailed a Writ of Habeas Corpus to the court in which he were sentence-, (such Writ was sent by regestered mail, and Petitioner holds U. S. regestered receipt for same, The said Writ was intercepted by the States Attorney, and was

neither filed or entered on the court docket. Instead, another judge of the Circuit Court called petitioner up before him and corrected the error in the sentence. (See exhibit three (3) & four (4). And after your Petitioner had told the States Attorney that he did not entend to make any motions to the court, unless he was allowed first, the advice of counsel, for which The States Attorney stated, That counsel was not necessary in case of your Petitioefs, And after the process had been completed, the States Attorney handed the Writ of Habeas Corpus (back to your petitioner, and said that he, your petitioner, would need it no longer.

At this point, I wish to state, that the date of your petitioner, being called back to court, and the date the States Attorney gave back the Writ of Habeas Corpus to petitioner, was on December 12, 1946, (eight days after your petitioner had filed said Writ of Habeas Corpus.)

As stated, in U. S. Ex Rel, Frialingaer vs. Smith, 141 Fed. 2,-707, the citation reads, "Where judgement of the court was improper and the mittimus is void, the court cannot amend, set aside and render a new sentence, or interfere in anyway with the sentence after defendent has entered upon the service thereof," and this was held to be proper in iCty of Bellville, Ill. vs. Miller, 257 Ill. 24-A "'the *a*foregoing being true by fact of record and *u*ncontrover*t*able, it cannot be denied.

According to the above citation, the court did exceed its power and jurisdiction in recalling petitioner to vacate [fol. 11] his old sentence and render a new one, after he had started service thereon. Your Petitioner had filed a writ of Habeas Corpus to rectify what mistakes had been made, and to exhaust his remedy in State Courts prepa-tory to filing in the Federal Court, but the States Attorney did not allowe said Writ to be filed. The States Attorney had no authority to hold up or delay action on Your Petitioner Writ of Habeas Corpus. He, also, exceeded his power in doing so.

Your Honor:

Your Petitioner has c-early shown that he is a victim of an over-zealous States Attorney. And the records (see common-law records attached) which clearly shows that he was railroaded into prison, when he was indicted, tried,

convicted and sentence- all on the same day September 3, 1946, and that he had never waived any of his rights, and that he had been denied the aid of counsel; and access of witnesses (as the States Attorney saw to it that the said Emma Kathleen Young, your petitioner- wife, was tried, sentence-, and taken to the Reformatory for Women, at Dewight, ahead of time (August 21, 1946), so as she would not be available to appear as a witness in behalf of your petitioner) and this alone shows your petitioner, did not have the slightest chance to defend himself, in anyway whatsoever. And furthermore, your petitioner, has been denied rights guarenteed him by the Federal Constitution, and the Constitution of the State of Illinois, and that he never had "Due process of law, not even in its meanest sense.

Your Petitioner believes he is entitled to his discharge on Habeas Corpus because he had the merest pretence of a trial, because he was deprived of his rights, because he was held "incommunicado" in the Randolph County jail, and that he was denied Counsel to advise or assist him at anytime, before or after he was tried, and because he did not have "due process of law" and was deliberately railroaded to prison by an overzealous States Attorney, because the court had no jurisdiction to change his sentence, and because the States Attorney did exceeded his power in interferring with the Records of the Court, and the making out your petitioner- mittitmus papers or withholding your petitioner, Writ of Habeas Corpus from the court docket.

Your Petitioner clearly comes within the meaning of Section 1, 2, 3, and 6, of the Habeas Corpus Act, Chapter [fol. 12] 65, Article 22, of Smith-Hurd Revised Statutes, for the State Of Illinois. Further, petitioner believes he should be discharged on writ of habeas corpus instead of being forced to resort to higher courts. Exparte Royal cites, "Person or prisoners should be discharged on Habeas Corpus when facts warrant, instead of being forced to resort to higher court, Habeas Corpus is quicker and less expensive.

Ex-Parte Royal, 117 U. S. 241.
Ex-Parte Yarbrough, 110 U. S. 651, -4.

Your Honor:

Your Petitioner being a common man and not versed in legal matters, has tried to state simply and plainly his reason for believing he has a right to be relieved of further restraint. It may well be that this writ of Habeas Corpus is not written in the wholly accepted manner. If so, petitioner prays that the Honorable Court will see fit to grant some leeway in its consfruction. The facts and allegations presented herein are true, and are presented to the court as true, and are substantiated by records and letters. Your Petitioner prays that the court will grant him respite from his unlawful imprisonment.

The foregoing facts are true to the best of Your Petitioner- knowledge, and are hereto sworn to according to law, and my signature affixed.

Respectfuly submitted, Jack O'Lee Young, Petitioner, Pro Se.

State of Illinois,
County of Will, ss:

Sub-cribed and sworn to before me, a Notary Public on this 23 day of Sept. A. D., 1947. John J. Broderick, Notary Public. My commission expires 17 day of Dec. A. D., 1950. (Seal.)

[fol. 13] Exhibit # 1

Copy

Edward F. Baries, Circuit Judge, East St. Louis, Illinois.

October 21, 1946.

Mr. Jack O'Lee Young, Illinois State Penitentiary, Menard, Illinois.

Dear Sir:

After receiving your letter of September 22nd, I referred your letter to Mr. Conn, the States Attorney, and am enclosing his letter to me which is self explanatory.

If you conduct yourself properly, I will write a letter to the parole board, at the end of five years, in your behalf when you become eligible for parole.

Yours Truly: (Signed) E. F. Baries, Judge.

EMW efb Encl.

[fol. 14] EXHIBIT # 2

Law Offices, David N. Conn, Savings and Loan Building, Sparta, Illinois, State's Attorney of Randolph County Court House-Chester, Illinois

October 14, 1946.

Judge E. F. Bareis, Spivey Building, East St. Louis, Illinois.

DEAR JUDGE BAREIS:

I am enclosing the letter that Jack Young sent you from the Illinois State Penitentiary with the following remarks:

The docket entry is from five to ten years, and that is the way that I wrote the minutes up and prepared the mittimus. It is entirely possible that I made a mistake, but as I recall the sentence was from five to ten.

If you care to write Jack Young, you could point out to him that with good behavior he would not have to serve any more on a five to ten sentence then on a five to seven sentence. It really makes no difference in the length of time he would have to serve if he conducts himself properly within the institution.

Maximum sentence on a five to seven or a five to ten would be 6.3 and he would be eligible for parole at the end of five years. I beg to remain,

Yours respectfully, David N. Conn.

DNC/IIb Encl.

[fol. 15] EXHIBIT # 3

Edward F. Bareis, Circuit Judge, East St. Louis, Illinois.

November 7, 1946.

Mr. Jack O'Lee Young, No. 19869, Box 711, Menard, Illinois.

DEAR SIR:

In reply to your letter of October 28th, wish to state that I am this day writing to the proper authorities to authorize the correction of the error of your sentence, as I am satisfied that the sentence was five to seven years, and I do not wish to see an injustice done to anyone.

I thank you for calling my attention to this error.

Yours truly, E. F. Bareis.

EFB :R

[fol. 16] EXHIBIT # 4

Edward F. Bareis, Circuit Judge, East St. Louis, Illinois.

January 13, 1947

Mr. Jack O'Lee Young, No. 19869, Illinois State Penitentiary, Menard, Illinois.

DEAR MR. YOUNG:

In reply to yours of December 17, 1946 wish to state that I contacted Judge Maxwell, who was on the bench at the time you were brought into Court and he informed me that your sentence was corrected and you were sentenced to serve 5 to 7 years. I am sure Mr. Conn will do nothing to conflict with my instructions in this matter.

I am returning your petition for writ of habeas corpus which you mailed to me as the Court in Belleville has no jurisdiction in this matter and, if you insist on filing same, it should be filed in the Circuit Court at Chester.

Yours very truly, E. F. Bareis, Circuit Judge.

EFB/W encl.

[fol. 17] IN CIRCUIT COURT OF RANDOLPH COUNTY

INDICTMENT No. 1028

25249

STATE OF ILLINOIS,
Randolph County, ss:

Of the March term of the Randolph County Circuit Court, in the year of our Lord one thousand nine hundred and forty-six.

The Grand Jurors, chosen, selected and sworn, in and for said County of Randolph, in name and by the authority of the People of the State of Illinois, upon their oaths present: That Jack Young, late of the County of Randolph on the 16th day of August in the year of our Lord one thousand nine hundred and forty-six, in the said County of Randolph and State of Illinois aforesaid, feloniously, burglariously, wilfully, maliciously and forcibly broke and entered a certain building, to-wit, the room of Gilbert Born, more particularly described as Room 17 in the City Hotel in the City of Chester, in the County and State aforesaid,

there situate, with intent then and there feloniously, and burglariously to steal, take and carry away the personal goods, chattels, money and property of Gilbert Born, then and there being in the said Hotel Room Number 17; and then and there feloniously and burglariously stole, took and carried away one leather billfold of the value of five dollars, good and lawful money of the United State- of America, and one New Haven pocket watch with a gold case, of the value of five dollars, good and lawfully money of the United States of America, one ten dollar bill, and three one dollar bills, good and lawful currency of the United State- of America, a more particular description of said currency being to the said Grand Jurors unknown, of the value of thirteen dollars, good and lawful money of the United States of America, all being the personal goods, chattels, money and property of the said Gilbert Born, then and there being found in the said Hotel Room Number 17, contrary to the form of the Statute in such case made and provided and against the peace and dignity of the same People of the said State of Illinois.

2. And the Grand Jurors aforesaid, chosen, selected and sworn, in and for the County of Randolph aforesaid, in the name and by the authority of the People of the State aforesaid, upon their oaths aforesaid do further present that the said Jack Young, late of the County of Randolph, on the 16th day of August in the year of our Lord one thousand nine hundred and forty-six, in the said County of Randolph and State aforesaid, feloniously, burglariously, wilfully, maliciously and without force, the doors and windows being open, entered said building, described as Room 17 in the City Hotel in the City of Chester, in the County and State aforesaid, there situate, with intent then and there feloniously and burglariously to steal, take and carry away the personal goods, chattels, money and property of the said Gilbert Born, then and there being in said building, to-wit, the dwelling room of Gilbert Born, more particularly described as Room 17 in the City Hotel in the City of Chester, contrary to the form of the Statute in such case made and provided and against the peace and dignity of the same People of the State of Illinois.

3. And the Grand Jurors aforesaid, chosen, selected and sworn, in and for the County of Randolph aforesaid, in the name and by the authority of the People of the State

aforesaid, upon their oaths aforesaid, do further present that the said Jack Young, late of the County of Randolph on the 16th day of August, in the year of our Lord one thousand nine hundred and forty-six, in the County of Randolph and State aforesaid, did wilfully, unlawfully and feloniously steal, take and carry away one leather billfold of the value of five dollars, good and lawful money of the United State of America, and one New Haven pocket watch, of the value of five dollars, good and lawful money of the United States of America, and one ten dollar bill, good and lawful currency of the United State of America, a more particular description of said currency being to the Grand Jurors unknown, of the value of ten dollars, good and lawful money of the United States of America, all being the personal goods and property of Gilbert Born, then and there being found, contrary to the Statute in such case made and provided, and against the peace and dignity of the same people of the State of Illinois.

David N. Conn, State's Attorney in and for Randolph County, Illinois.

[fol. 18] [Endorsed:] No. 1028. Bail fixed at $—. In the Circuit Court of Randolph County, March Term—A. D. 1946. The People of the State of Illinois vs. Jack Young. Indictment for Burglary and Larceny. A True Bill. Edward J. Doerr, Foreman of the Grand Jury. Witnesses: Elmo N. Morrison, Earl Stoeffel, Gilbert Born. State's Attorney, David N. Conn. Indictment Record "D" Page 167. Filed Sep. 3, 1946. Harold Hann, Circuit Clerk & Recorder of Randolph County, Illinois.

[fol. 19] In Circuit Court of Randolph County

Indictment, No. 1029

State of Illinois,
Randolph County, ss:

Of the March Term of the Randolph County Circuit Court, in the year of our Lord one thousand nine hundred and forty-six.

The Grand Jurors, chosen, selected and sworn, in and for said County of Randolph, in name and by the authority of the People of the State of Illinois, upon their oaths

present: That Jack Young, late of the County of Randolph on the 16th day of August in the year of our Lord one thousand nine hundred and forty-six, in the said County of Randolph and State of Illinois aforesaid, feloniously, burglariously, wilfully, maliciously and forcibly broke and entered a certain building, to-wit, the room of Edward J. Segar, more particularly described as Room 18 in the City Hotel in the City of Chester, in the County and State aforesaid, there situate, with intent then and there feloniously and burglariously to steal, take and carry away the personal goods, chattels, and property of Edward J. Segar, then and there being in the said Hotel Room Number 18; and then and there feloniously and burglariously stole, took and carried away one pair of men's low-cut shoes, of the valne of five doll-rs, good and lawful money of the United States of America; one man's hat of the value of three dollars, good and lawful money of the United States of America; three blue shirts of the value of three dollars, good and lawful money of the United States of America; two yellow shirts of the value of two dollars, good and lawful money of the United States of America; two pair of striped pants of the value of six dollars, good and lawful money of the United States of America; a more particular description of the aforesaid items of clothing being to the said Grand Jurors unknown, all being the personal goods, chattels and property of the said Edward J. Segar, then and there being found in the said Hotel Room Number 18, contrary to the form of the Statute in such case made and provided and against the peace and dignity of the same People of the State of Illinois.

2. And the Grand Jurors aforesaid, chosen, selected and sworn, in and for the County of Randolph aforesaid, in the name and by the authority of the People of the State aforesaid, upon their oaths aforesaid, do further present that the said Jack Young, late of the County of Randolph, on the 16th day of August in the year of our Lord one thousand nine hundred and forty-six, in the said County of Randolph and State aforesaid, feloniously, burglariously wilfully, maliciously and without force, the doors and windows being open, entered said building, to-wit, the dwelling room of Edward J. Segar, more particularly described as Room 18 in the City Hotel in the City of Chester in the County and State aforesaid, there situate, with intent then and there

feloniously and burglariously to steal, take and carry away the personal goods, chattels, and property of the said Edward J. Segar, then and there being in said building, to-wit, the dwelling room of Edward J. Segar, more particularly described as Room 18 in the City Hotel in the City of Chester, contrary to the form of the Statute in such case made and provided and against the peace and dignity of the same People of the State of Illinois.

3. And the Grand Jurors aforesaid, chosen, selected and sworn, in and for the County of Randolph aforesaid, in the name and by the authority of the People of the State aforesaid, upon their oaths aforesaid, do further present that the said Jack Young, late of the County of Randolph on the 16th day of August, in the year of our Lord one thousand nine hundred and forty-six, in the County of Randolph and State aforesaid, did wilfully, unlawfully and feloniously steal, take and carry away one pair of men's low cut shoes, of the value of five dollars, good and lawful money of the United States of America; one man's hat of the value of three dollars, good and lawful money of the United States of America; three blue shirts of the value of three dollars, good and lawful money of the United States of America; two yellow shirts of the value of two dollars, good and lawful money of the United States of America; two pair of striped pants of the value of six dollars; good and lawful money of the United States of America; and two pair of blue pants of the value of six dollars, good and lawful money of the United States of America; a more particular description of the aforesaid items of clothing being to the said Grand Jurors unknown, all being the personal goods and property of Edward J. Segar, then and there being found, contrary to the form of the Statute in such case made and provided and against the peace and dignity of the same People of the State of Illinois.

David N. Conn, State's Attorney in and for Randolph County, Illinois.

[fol. 20] [Endorsed:] No. 1029. Bail fixed at $—. In the Circuit Court of Randolph County, March Term—A. D. 1946. The People of the State of Illinois vs. Jack Young. Indictment for Burglary and Larceny. A True Bill. Edward F. Doerr, Foreman of the Grand Jury. Witnesses: Elmo Morrison, Earl Stoeffel, Edward J. Segar. State's

Attorney, David N. Conn, Indictment Record "D" Page 167. Filed Sep. 3, 1946. Harold Hann, Circuit Clerk & Recorder of Randolph County, Illinois.

[fol. 21] IN CIRCUIT COURT OF RANDOLPH COUNTY

No. 1028

THE PEOPLE OF THE STATE OF ILLINOIS,

vs.

JACK YOUNG

JUDGMENT AND SENTENCE—September 3, 1946

This Day come the said People, by David N. Conn, States Attorney, and the said defendant Jack Young in his own proper person. And the said defendant having been furnished with a copy of the Indictment and with lists of the Witnesses and Jurors, is arraigned, and for plea says that he is guilty as charged in the Indictment herein and the court admonishes him of the effect and consequences of said plea, and he still persists therein; whereupon he is arraigned for sentence.

Therefore It Is Ordered and Adjudged by the Court, That the said Defendant Jack Young be taken from the bar of this Court to the common jail of Randolph County, from whence he came, and from thence by the Sheriff of said Randolph County, within five days from this date, to the Illinois State Penitentiary of this State at Menard, Illinois and be delivered to the Warden or Keeper of said Penitentiary, and the said Warden or Keeper is hereby required and commanded to take the body of said Defendant Jack Young and confine him in said Penitentiary in safe and secure custody, from and after the delivery hereof until discharged by the Prison Board as authorized and directed by law, provided such term of imprisonment shall not exceed the maximum term, provided by law for the crime for which said defendant was convicted and sentenced. And the Court after having heard evidence hereby fixes the minimum duration of imprisonment under sentence to be five years and the maximum duration of imprisonment at ten years, this sentence to run concurrent to cause No. 1029 and the Court finds the defendants age to be thirty eight years.

Randolph County:

I, Harold Hahn, Clerk of the Circuit Court of the County of Randolph in the State of Illinois aforesaid, do hereby certify that the above and foregoing is a true copy of the final judgment and sentence, entered of record of said Court in the case of the People of the State of Illinois versus Jack Young.

In testimony whereof, I have hereunto set my hand and the seal of said Court at Chester, Illinois this 4th day of September A.D. 1946.

Harold Hahn, Clerk.

[fol. 22] IN THE CIRCUIT COURT OF RANDOLPH COUNTY, ILLINOIS

No. 1028

THE PEOPLE OF THE STATE OF ILLINOIS

vs.

JACK O'LEE YOUNG, DEFENDANT

Indictment for Burglary and Larceny

ARRAIGNMENT, PLEA OF GUILTY AND JUDGMENT

September 3rd, 1946—This day come the Grand Jurors, in a body, and return into open court indictment against Jack Young for Burglary and Larceny. Indorsed "A True Bill" by Edward J. Doerr, Foreman. Bail fixed at $1500.00. For indictment see Book "D" Page 167.

September 3rd, 1946: The defendant, Jack Young, appears before this Court in person and before arra-*ngé*ment is furnished with a copy of the indictment, toge*a*ther with a list of witnesses and jurrors, there upon being duly arra-*nged* enters a plea of guilty.

And the Defendant, Jack Young, pleads guilty to the crime of Burglary and Larceny in manner and form as charged in the Indictment. The Defendant is fully advised and admonished by the Court as to the consequences of his said plea of guilty, and still persists therein, where upon the said plea of guilty is accepted by the Court and upon

said plea of guilty, the Court being fully advised in the premises, doth find and adjudge the Defendent; Jack Young, guilty of the crime of Burglary and Larceny in manner and form as charged in the indictment, and doth further find and adjudge the value of the property to be $23.00, and the age of the Defendant to be thirty-eight years, and the said Defendant is accordingly hereby sentence- by the Court to the Illinois State Penitentiary, for a term of one year to life there to remain until discharged according to law, and the statute in such case made and provided, the Court after hearing evidence and recommendation of the State's Attorney, fixes the Minimum duration of imprisonment to be five years, and the maximum duration of imprisonment to be ten years. Mittimus ordered to issue.

(S.) Edward F. Bareis, Judge of the Circuit Court.

[fol. 23] In Circuit Court of Randolph County

No. 1028

The People of the State of Illinois

vs.

Jack O'Lee Young

Burglary and Larceny

Order Correcting Sentence

December 12, 1946—Now comes the Defendant Jack O'Lee Young in person and the People by David N. Conn, State's Attorney and the defendant by oral motion, moves the Court to correct the sentence heretofore entered; and it being affirmatively shown that the sentence heretofore entered in this case is in error: that the Court on September 3rd, 1946 fixed the minimum duration of imprisonment at five years and the maximum duration of imprisonment at seven years, but that by a clerical error the judgment read a maximum duration of ten years. The People interpose no objection to the motion and the Court allows the same and thereupon directs the Clerk to correct the record to read as follows: the Court fixes the minimum dura-

tion of imprisonment to be five years and the maximum duration of imprisonment to be seven years. Corrected mittimus ordered to issue.

(S.) Ralph L. Maxwell, Judge of the Circuit Court.

[fols. 24-25] In Circuit Court of Randolph County

Corrected Mittimus

Be It Remembered, That, on, to-wit: the 3rd day of September A.D. 1946, (the same being one of the days of the regular March term of the Circuit Court of Randolph County, Illinois, for the year aforesaid, the following among other, proceedings were had and entered of record in said Court, to-wit:

Hon. Edward F. Bareis, Presiding Judge.

No. 1028

The People of the State of Illinois,

vs.

Jack Young

Indictment for Burglary and Larceny

This day come the said People by Davis N. Conn, State's Attorney, and the said defendant Jack Young as well in own proper person xxx. And the said defendant, having been furnished with a copy of the Indictment and with lists of the witnesses and jurors is arraigned and for plea says that he is guilty as charged in the indictment herein and the court admonishes him of the effect and consequences of said plea and he still persists therein; and the Court hearing further sworn evidence in open Court to determine the limit or duration of imprisonment for the said defendant. And now neither the said defendant xxxx saying anything further why the judgment of the Court should not now be pronounced against him on his plea of guilty to the charge of Burglary & Larceny heretofore rendered in this cause.

Therefore, it is ordered and adjudged by the Court that the said defe-dant Jack Young whose age is found to be 38 years be taken from the bar of this court to the common jail of Randolph County, from whence he came and from thence by the Sheriff of said Randolph County to the Illinois State Penitent-ary and be d/livered to the Warden or Keeper of said Penitentiary, and the said Warden or Keeper is hereby required and commanded to take the body of said defendant Jack Young and confine him in said Penitentiary in safe and secure custody of a maximum limit or duration of imprisonment of 7 years, *am*king allowances for good time as is provided by las, and a minimum limit or duration of imprisonment of 5 years; as punishment for the crime for which the defendant was convicted or until otherwise discharged or paroled by law.

It is further ordered and adjudge- that the said defendant pay the costs of this prosecution, and that Fee Gills be issued therefore.

State of Illinois,
County of Randolph:

I, Harold Hahn, Clerk of said Circuit Court, within and for said County and State aforesaid, and keeper of the Records and seal thereof, Do herevy certify that the above and foregoing is a true copy of the final judgment and sentence, entered of record in the case of the People of the State of Illinois, versus Jack Young, being case general Number 102.

In testimony whereof, I have hereunto subscribed my hand and affixed the officials seal of said Court, at my office in Chester, Ill., on this 12 day of December A.D. 1946.

[fols. 26-27] In Circuit Court of Randolph County

People of the State of Illinois ex Rel. Jack O'Lee Young,

vs.

Joseph E. Ragen, Warden, Ill. State Penitentiary, Stateville Branch, Joliet, Ill.

Order Denying Petition for Writ of Habeas Corpus—October 6, 1947

Leave to sue as poor person granted. Petition for Writ of Habeas Corpus denied for the reason that said petition is insufficient in law and substance. Leave granted to withdraw petition upon request.

(S.) E. F. Bareis, Judge of the Circuit Court of Randolph County, Illinois.

[fols. 28-30] Clerk's Certificate to foregoing transcript omitted in printing.

[fol. 31] Supreme Court of the United States—October Term, 1947

No. 195, Misc.

On petition for writ of Certiorari to the Circuit Court of Randolph County, State of Illinois.

Order Granting Motion for Leave to Proceed in Forma Pauperis; Granting Petition for Certiorari, etc.—May 3, 1948.

On consideration of the motion for leave to proceed herein *in forma pauperis* and of the petition for writ of certiorari, it is ordered by this Court that the motion to proceed *in forma pauperis* be, and the same is hereby, granted; and that the petition for writ of certiorari be, and the same is hereby granted and the case is transferred to the appellate docket as No. 782.

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Section 733, Chapter 38—Illinois Revised Statutes (1945) 11
Section 807, Chapter 38—Illinois Revised Statutes (1945) 5
Section 22, Chapter 65—Illinois Revised Statutes (1945) 29
Section 732, Chapter 38—Illinois Revised Statutes (1945) 11
Section 45, Chapter 108—Illinois Revised Statutes (1945) 5
Paragraph 163a, Chapter 37—Illinois Revised Statutes (1945) 13